

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL ALLEN BRYSON,

Petitioner,

Case No. 11-20571;13-11939-BC
Honorable Thomas L. Ludington

v.

UNITED STATES OF AMERICA,

Respondent.

/

ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING MOTION TO VACATE, AND DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY

Michael Bryson was charged in a one-count indictment with intent to distribute heroin.

On January 17, 2012, Bryson pled guilty pursuant to a Rule 11 plea agreement filed on the same day. *See* ECF No. 17. On May 8, 2012, the Court sentenced Bryson to a term of imprisonment of 151 months.

Bryson did not appeal his conviction or sentence, instead filing a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. On May 7, 2013, Magistrate Judge Charles E. Binder issued a report recommending Bryson's motion be denied. As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The election to not file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Additionally, Bryson's failure to object to the magistrate judge's Report and Recommendation constitutes a waiver of his right to appeal. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). *See also United States v. Campbell*, 261 F.3d 628, 631–32 (6th Cir. 2001) (The defendant waived his right to appeal by failing to file objections to magistrate judge's

Report and Recommendation); *Arn*, 474 U.S. at 155 (upholding 6th Circuit practice against due process challenge). Therefore, a certificate of appealability is not warranted in this case.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 24, is **ADOPTED**.

It is further **ORDERED** that Petitioner's motion to vacate, ECF No. 20, is **DENIED**.

It is further **ORDERED** that the Court **DECLINES** to issue a certificate of appealability.

It is further **ORDERED** that the Court **DECLINES** to grant Petitioner *in forma pauperis* standing on appeal.

Dated: May 29, 2013

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means and upon Michael Allen Bryson #46147-039 Gilmer Federal Correctional Institution, Inmate Mail/Parcels, P.O. Box 6000 Glenville, WV 26351 by first class U.S. mail on May 29, 2013.

s/Tracy A. Jacobs
TRACY A. JACOBS